

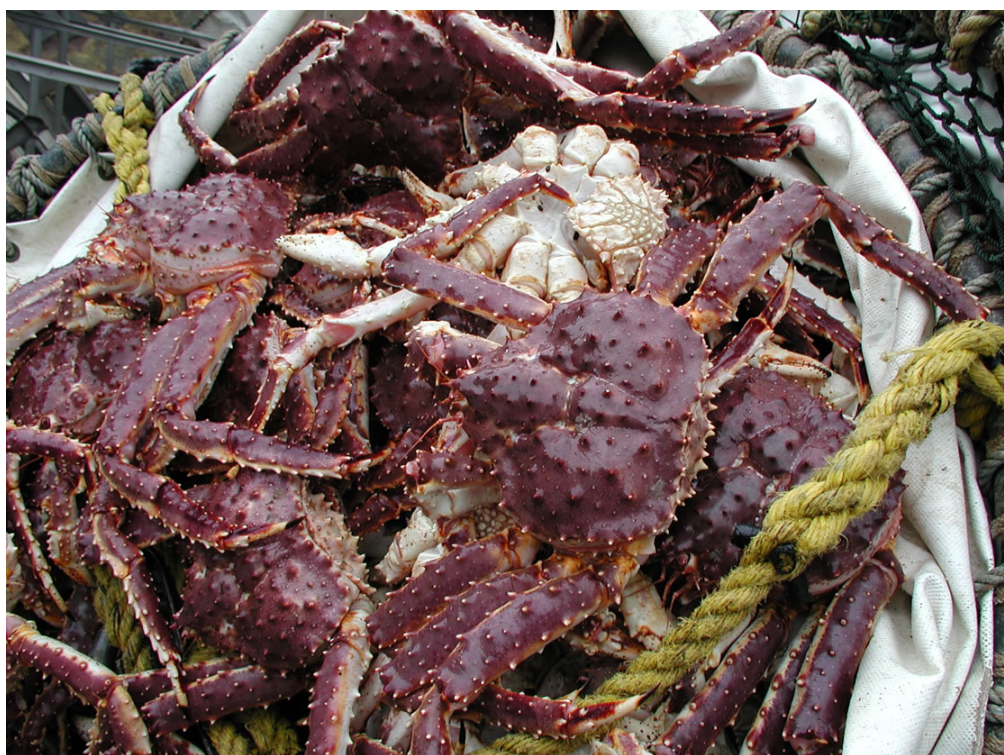


**NOAA**  
**FISHERIES**

Sustainable  
Fisheries

September 2016

## Crab Rationalization Program Cost Recovery for Fishing Year 2015/2016



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## Cost recovery

Under section 303A(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), costs for management and enforcement of individual fishing quota and other limited access privilege programs (LAPPs) are recoverable from participants. The North Pacific Fishery Management Council developed a LAPP for the Bering Sea and Aleutian Islands (BSAI) crab fisheries that allocates a percentage of the total allowable catch to participants in the Crab Rationalization Program (CR Program), which was implemented by Amendments 18 and 19 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). The Secretary of Commerce (Secretary) approved the amendments on November 19, 2004 and NMFS published final regulations implementing the CR Program in 2005 (70 FR 10174, March 2, 2005). Regulations implementing the FMP, including the CR Program, are located at 50 CFR part 680.

As a LAPP, the CR Program must follow the statutory provisions set forth by section 304(d) of the Magnuson-Stevens Act. Section 304(d) requires that the Secretary establish a fee “to recover the actual costs directly related to the management, data collection, and enforcement [...]”, up to a maximum of three percent of the ex-vessel value of the catch. The Secretary approved a cost recovery program for the CR Program, conducted in accordance with the cost recovery program for the Halibut and Sablefish Individual Fishing Quota (IFQ) Program on March 2, 2005 (70 FR 10174). Similar to the IFQ cost recovery program, the CR cost recovery program allows for the collection of actual management and enforcement costs up to three percent of ex-vessel gross revenues and a loan program using twenty-five percent of the fees collected. Under the regulations implementing the CR cost recovery program, cost recovery fees must be paid in equal shares by the harvesting and processing sectors. The processing sector, specifically registered crab receivers (RCRs), are responsible for collecting the fee liability from the harvesters and submitting this and their own self-collected liability to NMFS. Catcher/processors—vessels that harvest and process crab—pay the full fee percentage.

## Use of funds

Receipts from the cost recovery fee collection are deposited into two accounts. Up to twenty-five percent of the collections are deposited into the U.S. Treasury and are available to Congress for annual appropriations to support the BSAI Crab Quota Share Loan Program described below. The remaining funds are deposited into the Limited Access System Administrative Fund. Funds in this account are available only to the Secretary and must be spent on CR Program management and enforcement.

## BSAI Crab Quota Share Loan program

In 2011, NMFS implemented a Federal loan program to assist captains and crew in the purchase of quota shares (QS) for the CR Program. On May 5, 2010, NMFS published a proposed rule (75

FR 24549) to revise the Fisheries Finance Program's<sup>1</sup> lending regulations to implement the loan program for the CR Program fisheries. Effective January 18, 2011, the final rule granted captains and crew the opportunity to purchase crab QS for the 2011/12 crab fishing year (75 FR 78619, December 16, 2010).

### CR Program cost recovery fee

By statute, CR Program fees must be shared equally by the harvesting and processing sectors; by regulation, the RCRs assume the fee liability and must remit the fees to the Federal Government. The RCRs are responsible for collecting the fee liability from the harvesters and submitting this and their own self-collected liability to NMFS. Catcher/processors pay the full fee percentage.

NMFS computes the annual fee percentage that applies for each crab fishing year. Fees are based on the total value of crab landings in money, goods, or services. For crab delivered raw for processing, each RCR's fee liability is estimated by multiplying the annual fee percentage needed to recover costs (up to three percent) by the ex-vessel value of CR Program crab. Catcher/processors participate in both the harvesting and processing sectors, so vessel owners or operators of catcher/processors must be RCRs and are responsible for paying the entire fee liability, based on standard prices derived from information reported for raw crab deliveries.

Prior to the start of the crab fishing year, NMFS publishes the annual fee percentage in the *Federal Register*. The fee percentage is used by RCRs to collect fee liabilities from harvesters, and then self-collect, throughout the fishing year. Due to the fact that the fee percentage is projected forward prior to management costs being finalized, any overpayment or underpayment is adjusted for in the next year's fee percentage. The sections below describe the process by which the fee percentage is calculated.

### Calculating the ex-vessel value of the CR Program fisheries

NMFS calculates the ex-vessel value of the CR Program fisheries using information from the Ex-vessel Volume and Value Report that is submitted annually by RCRs (due May 31). This report includes the pounds of CR Program crab purchased and the ex-vessel value paid. The overall ex-vessel value of the CR Program fisheries is calculated by summing the value of all pounds purchased of CR Program crab. Additionally, the Ex-vessel Volume and Value Report is used to calculate standard prices by month and by crab species. These standard prices are multiplied by the landings of catcher/processors to determine the ex-vessel value for that sector.

### Calculating the costs of management and enforcement

NMFS determines the incremental costs of managing the CR Program based on costs that would not have been incurred but for the CR Program. To arrive at these costs, every year NMFS agency and management units calculate CR Program direct program costs, broken out by cost categories including personnel/overhead, travel, transportation, printing, contracts/training, supplies, equipment, and rent/utilities. Agency units include NMFS Restricted Access Management (RAM), NMFS Information Services Division (ISD), NMFS Office of Law Enforcement (OLE), NMFS

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<sup>1</sup> The Fisheries Finance Program provides long term financing for the cost of construction or reconstruction of fishing vessels, fisheries facilities, aquaculture facilities and individual fishing quota.

Sustainable Fisheries Division (SFD), NMFS Regional Administrator/Appeals Office (RA/OAA), NMFS Financial Service Division (FSD), NMFS Office of Operations and Management (OMD), the Alaska Fisheries Science Center (AFSC), and the Pacific States Marine Fisheries Commission (PSMFC). The CR Program provides that a proportional share of fees charged for management and enforcement be forwarded to the State of Alaska for its share of management and data collection costs for the Program.

The two highest cost components among the agency and management units are OLE and the ADF&G, respectively. Between fiscal years, management and enforcement costs fluctuate due to changes within the agency and management units, such as new contracts, required trainings, personnel changes, and equipment purchases.

### Calculating the annual fee percentage

NMFS computes the annual fee percentage by dividing the management costs by the total ex-vessel value of crab landings in money, goods, or services. The annual fee percentage is calculated using the following formula:

$$[100 \times (DPC)/V]$$

The formula shows that the direct program costs of management and enforcement (DPC), multiplied by 100, is then divided by the fisheries value (V). The result, rounded to the nearest 0.1 percent, is the *fee percentage*. The direct program costs also reflect any adjustments due to underpayment or overpayment from previous year's projection of management costs.

The annual fee percentage is published in the *Federal Register* at the start of the crab fishing year (July 1 through June 30) and is applied to all landings of CR Program crab by CR Program permit holders and RCRs to collect cost recovery fees as they occur throughout the upcoming season. NMFS provides a summary of fee liabilities to all RCR permit holders during the last quarter of the crab fishing year. The summary explains the cost recovery fee determination for each individual RCR including the current fee percentage, details of raw crab pounds debited from CR allocations by permit, port or port-group, species, date, and prices. Funds collected under the CR Program vary yearly because annual ex-vessel value and management costs fluctuate.

### Payment of cost recovery fees

NMFS sends fee statements to RCRs based on the RCRs' reported landings for the previous crab fishing year for all CR Program crab and value as computed for fee collection purposes. The RCR permit holder is responsible for submitting payment to NMFS on or before the due date of July 31, following the crab fishing year in which payment for the crab is made. Fees may be paid by check, money order, or credit card.

If an RCR fails to pay on time, OMD will issue an Initial Administrative Determination to which the permit holder must respond within 30 days. If an account is unpaid for 30 days after the due date, administrative fees, interest, and penalties start to accrue. NMFS may take action against the permit holder's QS holdings and assess additional monetary charges, fines, or permit sanctions. Additionally, the Regional Administrator may disapprove any transfer of IFQ, individual processing quota, QS, or processor quota shares to or from the RCR permit holder. The RCR may not be issued IFQ or individual processing quota for that crab fishing year if they



fail to submit payment. If after 180 days the fee remains unpaid, the unpaid balance is forwarded to the U.S. Department of the Treasury for collection.

### Calculating the 2015/2016 fee

The fee percentage for the 2015/2016 CR Program fishing year was set at 1.60 percent. This figure derives from these sources:

- The total ex-vessel value of the CR Program fisheries; and
- The direct program costs for the CR Program (by actual expenditures during the Federal fiscal year).

The total standard ex-vessel value of the 2015/2016 CR Program fisheries was \$227,733,902, which was 0.7 percent lower than the total standard ex-vessel value of the 2014/2015 fisheries of \$229,359,606. This value derives from price information submitted by the RCRs.

Using the fee percentage formula, the estimated percentage of costs to value for the 2015/2016 crab fishery was 1.60 percent. Therefore, NMFS applied the fee percentage of 1.60 percent to the 2016/2017 crab fishing year. Table 1 shows the 2015/2016 fee percentage computation.

Table 1. Detail of formula for calculating the 2015/2016 fee percentage

| Factor   | Value         | Activity                              |
|--|---------------|---------------------------------------|
| Cost   | \$3,650,178   | times 100                             |
| Total Ex-Vessel Value (V)  | \$227,733,902 | divided by                            |
| =  | 1.60          | rounded to nearest 0.1 percent yields |
| <i>Fee percentage for 2015/2016 CR Program Fishing Year<br/>= 1.60 percent</i> |               |                                       |

During FY 2015, program expenses (\$3,650,178) increased 7 percent compared with FY 2014 program expenses (\$3,392,286). The change in the program expenses is due to an increase in ADF&G management costs. These additional costs were necessary to process, analyze, and report fishery data for monitoring and management of the crab fisheries in the Program. Additionally, the value of crab harvested under the Program decreased by \$1.6 million, mainly due to a substantial decrease in the total allowable catch of Bering Sea snow crab. This decrease in value of the fishery contributed to the increase in the fee percentage between 2015/2016 and 2016/2017.

Table 2 shows the FY 2015 program costs by agency and operating unit, and Figure 1 is a comparison of those costs from FY 2015 to FY 2013.

Figure 1. Crab Rationalization Program expenses by operating unit FY 2013 to FY 2015.

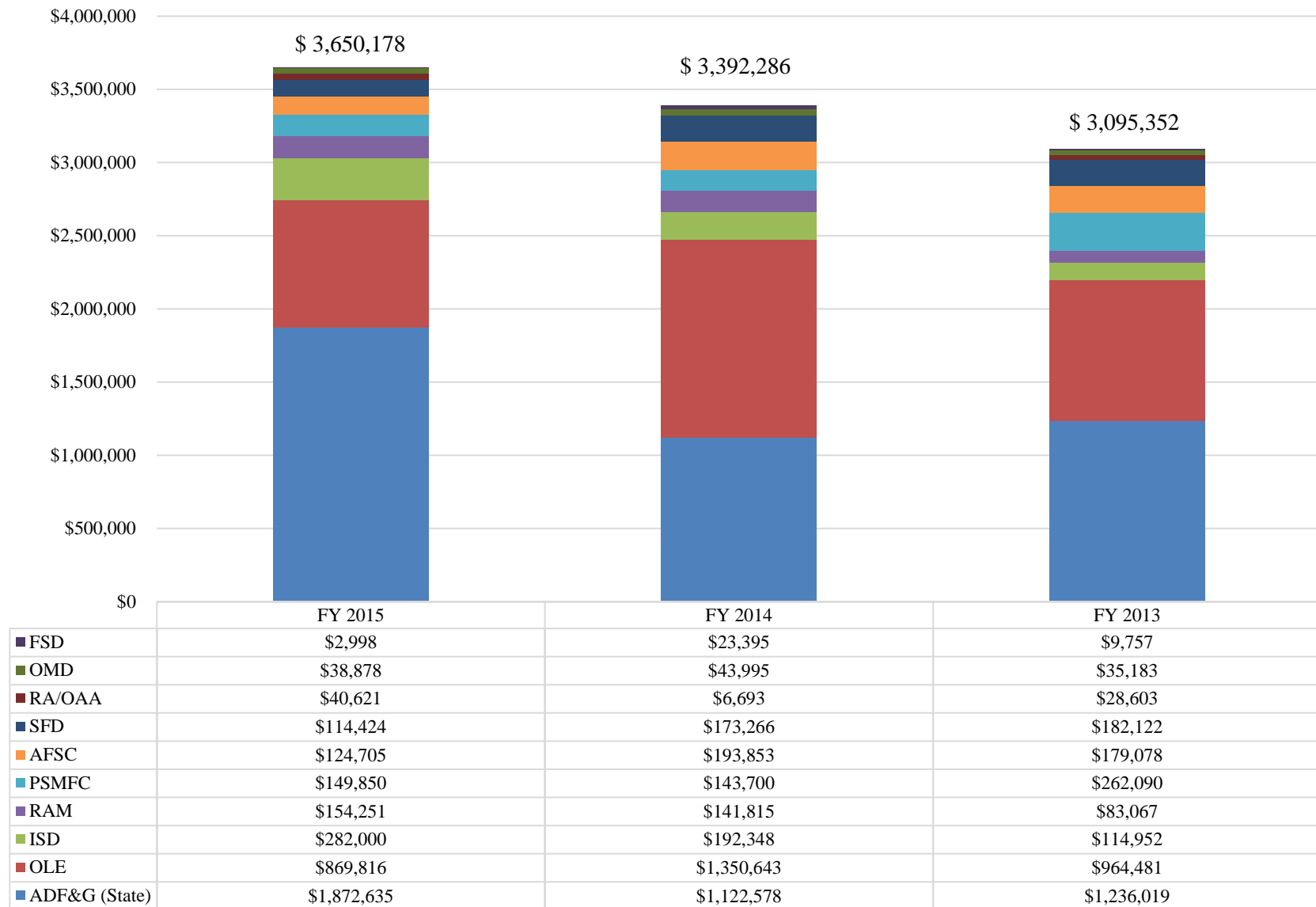


Table 2. Fiscal Year 2015 costs associated with management and enforcement of the CR Program (Fishing Year 2014/2015).

| <b>Cost Category</b>                      | <b>NMFS<br/>RAM</b> | <b>NMFS<br/>ISD</b> | <b>NMFS<br/>OLE</b> | <b>NMFS<br/>SFD</b> | <b>NMFS<br/>FSD</b> | <b>NMFS<br/>OMD</b> | <b>NMFS<br/>RA/OAA</b> | <b>NMFS<br/>AFSC</b> | <b>PSMFC</b> | <b>ADF&amp;G</b> | <b>Total</b> |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|------------------------|----------------------|--------------|------------------|--------------|
| Personnel Costs/<br>Overhead <sup>a</sup> | \$75,437            | \$123,900           | \$348,046           | \$69,063            | \$2,998             | \$17,226            | \$19,521               | \$48,864             | \$65,922     | \$1,023,181      | \$1,794,158  |
| Travel <sup>b</sup>                       | -                   | \$2,700             | \$9,692             | \$11,871            | -                   | -                   | -                      | \$5,310              | \$960        | \$45,075         | \$75,608     |
| Transportation <sup>c</sup>               | -                   | -                   | \$222               | -                   | -                   | -                   | -                      | -                    | -            | -                | \$222        |
| Printing                                  | \$100               | -                   | -                   | \$6                 | -                   | -                   | -                      | -                    | -            | -                | \$106        |
| Contracts/Training                        | \$3,400             | \$124,100           | \$438,655           | \$23,200            | -                   | \$17,500            | \$21,100               | -                    | \$65,250     | \$574,775        | \$1,267,980  |
| Supplies                                  | \$2,509             | \$20,600            | \$1,524             | \$14                | -                   | \$549               | -                      | -                    | \$6,544      | \$14,736         | \$46,477     |
| Equipment                                 | -                   | -                   | \$25,064            | -                   | -                   | -                   | -                      | -                    | -            | -                | \$25,064     |
| Rent/Utilities <sup>d</sup>               | \$12,805            | \$10,700            | \$46,612            | \$10,270            | -                   | \$3,603             | -                      | -                    | -            | -                | \$83,990     |
| Other                                     | \$60,000            | -                   | -                   | -                   | -                   | -                   | -                      | \$70,531             | \$11,174     | \$214,868        | \$356,573    |
| <i>Percentage of<br/>costs (%)</i>        | 4.23%               | 7.73%               | 23.83%              | 3.13%               | 0.08%               | 1.07%               | 1.11%                  | 3.42%                | 4.11%        | 51.30%           |              |
| <b>Total</b>                              | \$154,251           | \$282,000           | \$869,816           | \$114,424           | \$2,998             | \$38,878            | \$40,621               | \$124,705            | \$149,850    | \$1,872,635      | \$3,650,178  |

<sup>a</sup> Personnel Costs/Overhead includes locality pay and all benefits.

<sup>b</sup> Travel includes per diem payments.

<sup>c</sup> Transportation includes shipment of items.

<sup>d</sup> Rent/Utilities includes costs of space and utilities and shared common space and services.

## Conclusion

Cost recovery fees do not increase agency budgets or expenditures. They simply offset funds that would otherwise have been appropriated, except the PSMFC and ADF&G expenditures for which there is no direct appropriation. No budgetary advantage is ever gained by inflating CR Program management and enforcement costs. Although some costs are controlled by “economies of scale,” other costs will decrease with the number of CR Program participants. Table 3 shows the management costs and ex-vessel value of the CR Program fisheries for the purposes of cost recovery since the CR Program was initiated.

Table 3. Program cost recovery over time

| <b>Crab Fishing Year</b> | <b>Fishery Value<sup>a</sup></b> | <b>Total Program Costs</b> | <b>Annual Fee Percentage<sup>b</sup></b> | <b>RCR Permit Holders w/ Billable Landings</b> |
|--------------------------|----------------------------------|----------------------------|--|--|
| <b>2015 / 2016</b>       | \$227,733,902                    | \$3,650,178                | 1.60                                     | 16   |
| <b>2014 / 2015</b>       | \$229,198,504                    | \$3,392,286                | 1.48                                     | 19   |
| <b>2013/ 2014</b>        | \$209,386,273                    | \$3,095,352                | 0.69                                     | 20   |
| <b>2012/ 2013</b>        | \$231,535,032                    | \$3,516,592                | 0 <sup>c</sup>                           | 20   |
| <b>2011/ 2012</b>        | \$286,752,062                    | \$3,364,442                | 1.23                                     | 20   |
| <b>2010/ 2011</b>        | \$261,747,837                    | \$3,210,189                | 2.67                                     | 21   |
| <b>2009/ 2010</b>        | \$147,188,073                    | \$3,927,062                | 0 <sup>c</sup>                           | 18   |
| <b>2008/ 2009</b>        | \$212,412,973                    | \$3,195,760                | 1.05                                     | 22   |
| <b>2007/ 2008</b>        | \$202,719,417                    | \$2,133,758                | 3.0 <sup>d</sup>                         | 20   |
| <b>2006/ 2007</b>        | \$119,652,929                    | \$3,939,841                | 3.0 <sup>d</sup>                         | 22   |
| <b>2005/ 2006</b>        | \$138,888,840                    | \$4,270,881                | 3.0 <sup>d</sup>                         | 17   |

a Fishery Value is the projected ex-vessel value of the catch subject to the crab cost recovery fee liability for the current year. For this table, the value amount is rounded.

b Fee liability percentages are noted here for the crab fishing year from which they were derived. The fee percentage was applied to the following crab fishing year.

c For each fiscal year, the amount collected is rounded. Due to a revenue surplus, no billing/collection occurred in the 2009/10 and 2012/13 (Years 5 and 8, respectively) fishing year.

d These billed percentages were limited by the Magnuson-Stevens Act statutory three percent cap of the ex-vessel value of the fishery in any Program year.



## Fees collected under the BSAI King and Tanner Crab Fishing Capacity Reduction Program

Under section 312(b) of the Magnuson-Stevens Act, NMFS has the authority to conduct a fishing capacity reduction program if funds are provided and such a program is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable or significant improvements in the conservation and management of a fishery. A capacity reduction program must be consistent with any state and Federal fishery management plans in place for a fishery. Funding for such programs is authorized under section 312(c) of the Magnuson-Stevens Act and allows NMFS to obtain funding through specific appropriations from industry fee systems and public, private, or nonprofit sources. Under this authority, regulations implementing the BSAI King and Tanner Crab Fishing Capacity Reduction Program were effective on January 12, 2004 (68 FR 69331), and on January 19, 2005, funding was appropriated. Regulations governing the program are at 50 CFR part 600.1103 and part 600.1104. Under administration of the FSD, NMFS bought back 25 BSAI crab fishing vessels, associated fishery histories, and 62 licenses to achieve the maximum sustained reduction in BSAI crab fishing capacity at the least cost and in minimum time. In the BSAI King and Tanner Crab Fishing Capacity Reduction Program, the FSD administers an industry-funded, 30-year loan of \$97,399,357.00 at a fixed rate of 6.54 percent.

Fees for repayment of the loan are authorized under section 312(d)(2)(C) of the Magnuson-Stevens Act and are to be paid on harvests of the CR Program crab species. Harvesters are required to pay the fee and all parties making the first ex-vessel purchase of the crab (“fish buyers”) are required to collect the fee based on the crab's full delivery value, and account for and forward the fee revenue to repay the loan. The current fee rates are shown in Table 4. By regulation, the fee rate may not exceed five percent of the delivery value.

Fee collection to repay the loan began on October 17, 2005. BSAI Crab Buyback Loan Fees are due by the 7th day of the month after the month in which landings occurred. Buyback fees received after that date are subject to a 1.5 percent per month (or portion thereof) late charge fee. NMFS may withhold annual crab permits if buyback fees are outstanding.

Table 4 shows the principle balance for each of the “subloans” allocated to each fishery by the BSAI King and Tanner Crab Fishing Capacity Reduction Program. Loan balances are current as of June 30, 2016. The St. Matthew Island blue king crab fishery opened for the first time since the inception of this Program on October 15, 2009. The Western Aleutian Islands red king crab and Pribilof Islands king crab fisheries have remained closed since the start of the loans. By late June 2016, fishermen had reduced the original loan amount (\$97.4 million) to \$72 million, with an additional interest balance of \$4.7 million.

Table 4. Fishery loan status of the BSAI King and Tanner Crab Fishing Capacity Reduction Program, June 30, 2016.

| Crab Fishery                              | Original Loan Amount   | Principal Balance      | Interest Balance      | Fee Rate |
|---|------------------------|------------------------|-----------------------|----------|
| Bering Sea Snow Crab and Tanner Crab      | \$66,410,767.20        | \$56,039,379.05        | \$57,532.66           | 5.0 %    |
| Bristol Bay Red King Crab                 | \$17,129,957.23        | \$8,459,060.27         | \$211,366.65          | 2.5 %    |
| Aleutian Islands Golden (Brown) King Crab | \$6,380,837.19         | \$88,066.25            | \$173.79              | 5.0 %    |
| St. Matthew Island Blue King Crab         | \$5,668,991.10         | \$5,668,991.10         | \$3,072,529.52        | 5.0 %    |
| Pribilof Islands Red and Blue King Crab   | \$1,571,216.35         | \$1,571,216.35         | \$1,179,303.73        | 5.0 %    |
| Aleutian Islands Red King Crab            | \$237,588.04           | \$237,588.04           | \$178,325.83          | 5.0 %    |
| <b>Total</b>                              | <b>\$97,399,357.11</b> | <b>\$72,064,301.06</b> | <b>\$4,699,232.19</b> |          |